

FILED

JUN 28 2007

Jun. 28, 2007
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JH

LUMENIS LTD. and
LUMENIS INC.,

Plaintiffs,

v.

ALMA LASERS LTD. and
ALMA LASERS, INC.,

Defendants.

07CV3622
JUDGE LINDBERG
MAG. JUDGE VALDEZ

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs, Lumenis Ltd. and Lumenis Inc. (together "Lumenis" or "plaintiffs"), as and for their Complaint against defendants, Alma Lasers Ltd. and Alma Lasers, Inc. (together "Alma" or "defendants"), allege as follows:

JURISDICTION AND VENUE

1. This action arises under the patent laws of the United States, 35 U.S.C. § 271 et seq. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

2. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), (c) and (d) and §1400(b).

PARTIES

3. Plaintiff Lumenis Ltd. is an Israeli company having a principal place of business at Yokneam Industrial Park, P.O. Box 240, in Yokneam, Israel.

4. Plaintiff Lumenis Inc. is a Massachusetts corporation having a principal place of business at 5302 Betsy Ross Drive in Santa Clara, California.

5. Upon information and belief, defendant Alma Lasers Ltd. is an Israeli company having a regular and established place of business at 14 Halamish, Caesarea Industrial Park, Caesarea, Israel 38900, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

6. Upon information and belief, defendant Alma Lasers, Inc. is a Delaware company having a regular and established place of business at 485 Half Day Road Suite 100, Buffalo Grove, Illinois 60089, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

COUNT I

(Infringement of U.S. Patent No. 7,108,689)

7. The allegations of paragraphs 1 – 6 above are incorporated herein by reference.

8. This claim is made under the provisions of the patent laws of the United States, 35 U.S.C. § 271 et seq.

9. Lumenis is the owner of U.S. Patent No. 7,108,689 (“the ‘689 patent”) that was duly and legally issued on September 19, 2006, and is entitled “Method and Apparatus for Electromagnetic Treatment of the Skin, Including Hair Depilation.”

10. In violation of one or more provisions of 35 U.S.C. § 271, defendants have infringed, and continue to infringe one or more of the claims of the ‘689 patent by making, using, selling and/or offering for sale, *inter alia*, electromagnetic skin treatment products, including the Harmony Multi-Application System in this judicial district and elsewhere.

11. Defendants’ acts of infringement are willful.

12. Defendants' acts of infringement have caused reparable and irreparable damage to Lumenis and Lumenis will continue to suffer damage unless defendants are enjoined.

COUNT II

(Infringement of U.S. Patent No. 6,280,438)

13. The allegations of paragraphs 1 – 12 above are incorporated herein by reference.

14. This claim is made under the provisions of the patent laws of the United States, 35 U.S.C. § 271 et seq.

15. Lumenis is the owner of U.S. Patent No. 6,280,438 ("the '438 patent") that was duly and legally issued on August 28, 2001, and is entitled "Method and Apparatus for Electromagnetic Treatment of the Skin, Including Hair Depilation."

16. In violation of one or more provisions of 35 U.S.C. § 271, defendants have infringed, and continue to infringe one or more of the claims of the '438 patent by making, using, selling and/or offering for sale, *inter alia*, electromagnetic skin treatment products, including the Harmony Multi-Application System in this judicial district and elsewhere.

17. Defendants' acts of infringement are willful.

18. Defendants' acts of infringement have caused reparable and irreparable damage to Lumenis and Lumenis will continue to suffer damage unless defendants are enjoined.

COUNT III

(Infringement of U.S. Patent No. 6,174,325)

19. The allegations of paragraphs 1 – 18 above are incorporated herein by reference.

20. This claim is made under the provisions of the patent laws of the United States, 35 U.S.C. § 271 et seq.

21. Lumenis is the owner of U.S. Patent No. 6,174,325 (“the ‘325 patent”) that was duly and legally issued on January 16, 2001, and is entitled “Method and Apparatus for Therapeutic Electromagnetic Treatment.”

22. In violation of one or more provisions of 35 U.S.C. § 271, defendants have infringed, and continue to infringe one or more of the claims of the ‘325 patent by making, using, selling and/or offering for sale, *inter alia*, electromagnetic skin treatment products, including the Harmony Multi-Application System in this judicial district and elsewhere.

23. Defendants’ acts of infringement are willful.

24. Defendants’ acts of infringement have caused reparable and irreparable damage to Lumenis and Lumenis will continue to suffer damage unless defendants are enjoined.

COUNT IV

(Infringement of U.S. Patent No. 5,964,749)

25. The allegations of paragraphs 1 – 24 above are incorporated herein by reference.

26. This claim is made under the provisions of the patent laws of the United States, 35 U.S.C. § 271 et seq.

27. Lumenis is the owner of U.S. Patent No. 5,964,749 (“the ‘749 patent”) that was duly and legally issued on October 12, 1999, and is entitled “Method and Apparatus for Skin Rejuvenation and Wrinkle Smoothing.”

28. In violation of one or more provisions of 35 U.S.C. § 271, defendants have infringed, and continue to infringe one or more of the claims of the ‘749 patent by making, using, selling and/or offering for sale, *inter alia*, electromagnetic skin treatment products, including the Harmony Multi-Application System in this judicial district and elsewhere.

29. Defendants’ acts of infringement are willful.

30. Defendants' acts of infringement have caused reparable and irreparable damage to Lumenis and Lumenis will continue to suffer damage unless defendants are enjoined.

COUNT V

(Infringement of U.S. Patent No. 5,707,403)

31. The allegations of paragraphs 1 – 30 above are incorporated herein by reference.

32. This claim is made under the provisions of the patent laws of the United States, 35 U.S.C. § 271 et seq.

33. Lumenis is the owner of U.S. Patent No. 5,707,403 ("the '403 patent") that was duly and legally issued on January 13, 1998, and is entitled "Method for the Laser Treatment of Subsurface Blood Vessels."

34. In violation of one or more provisions of 35 U.S.C. § 271, defendants have infringed, and continue to infringe one or more of the claims of the '403 patent by making, using, selling and/or offering for sale, *inter alia*, electromagnetic skin treatment products, including the Harmony Multi-Application System in this judicial district and elsewhere.

35. Defendants' acts of infringement are willful.

36. Defendants' acts of infringement have caused reparable and irreparable damage to Lumenis and Lumenis will continue to suffer damage unless defendants are enjoined.

COUNT VI

(Infringement of U.S. Patent No. 5,626,631)

37. The allegations of paragraphs 1 – 36 above are incorporated herein by reference.

38. This claim is made under the provisions of the patent laws of the United States, 35 U.S.C. § 271 et seq.

39. Lumenis is the owner of U.S. Patent No. 5,626,631 (“the ‘631 patent”) that was duly and legally issued on May 6, 1997, and is entitled “Method and Apparatus for Therapeutic Electromagnetic Treatment.”

40. In violation of one or more provisions of 35 U.S.C. § 271, defendants have infringed, and continue to infringe one or more of the claims of the ‘631 patent by making, using, selling and/or offering for sale, *inter alia*, electromagnetic skin treatment products, including the Harmony Multi-Application System in this judicial district and elsewhere.

41. Defendants’ acts of infringement are willful.

42. Defendants’ acts of infringement have caused reparable and irreparable damage to Lumenis and Lumenis will continue to suffer damage unless defendants are enjoined.

COUNT VII

(Infringement of U.S. Patent No. 5,405,368)

43. The allegations of paragraphs 1 – 42 above are incorporated herein by reference.

44. This claim is made under the provisions of the patent laws of the United States, 35 U.S.C. § 271 et seq.

45. Lumenis is the owner of U.S. Patent No. 5,405,368 (“the ‘368 patent”) that was duly and legally issued on April 11, 1995, and is entitled “Method and Apparatus for Therapeutic Electromagnetic Treatment.”

46. In violation of one or more provisions of 35 U.S.C. § 271, defendants have infringed, and continue to infringe one or more of the claims of the ‘368 patent by making, using, selling and/or offering for sale, *inter alia*, electromagnetic skin treatment products, including the Harmony Multi-Application System in this judicial district and elsewhere.

47. Defendants’ acts of infringement are willful.

48. Defendants' acts of infringement have caused reparable and irreparable damage to Lumenis and Lumenis will continue to suffer damage unless defendants are enjoined.

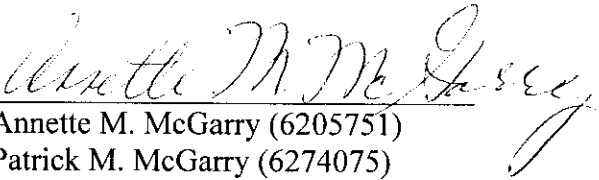
WHEREFORE, Lumenis prays that the Court:

- A. Enter judgment that defendants have infringed U.S. Patent Nos. 7,108,689; 6,280,438; 6,174,325; 5,964,749; 5,707,403; 5,626,631 and 5,405,368;
- B. Enter judgment that defendants' acts of patent infringement are willful;
- C. Temporarily, preliminarily and permanently enjoin defendants, their parents, subsidiaries, affiliates, divisions, officers, agents, servants, employees, directors, partners, representatives, and all parties in active concert and/or participation with it, from engaging in the aforesaid unlawful acts of infringement;
- D. Order defendants to account for and pay to plaintiffs all damages caused to plaintiffs by defendants' unlawful acts;
- E. Award plaintiffs increased damages and attorney fees pursuant to 35 U.S.C. §§ 284 and 285;
- F. Award plaintiffs their interest and costs incurred in this action; and
- G. Grant plaintiffs such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial of all issues triable of right by jury.

Respectfully submitted,


Annette M. McGarry (6205751)
Patrick M. McGarry (6274075)
McGarry & McGarry, LLC
120 North LaSalle Street
Suite 1100
Chicago, Illinois 60602
Telephone: (312) 345-4600
Facsimile: (312) 345-4601
amm@mcgarryllc.com

Of Counsel

Paul J. Hayes
A. Jason Mirabito
Dean G. Bostock
Robert R. Gilman
MINTZ LEVIN COHN FERRIS GLOVSKY
AND POPEO, P.C.
One Financial Center
Boston, MA 02111
Telephone: (617) 542-6000
Facsimile: (617) 542-2241

Richard G. Gervase
MINTZ LEVIN COHN FERRIS GLOVSKY
AND POPEO, P.C.
Chrysler Center
666 Third Avenue
New York, NY 10017
Tel: (212) 692-6800
Fax: (212) 983-3115

*Attorneys for Plaintiffs
Lumenis Ltd. and Lumenis Inc.*